

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

Susan Juhl,

Plaintiff,

v.

Northern Suburban
Special Education District 760,

Defendant.

No. 16-509

NOTICE OF REMOVAL

Defendant Northern Suburban Special Education District 760 (“NSSED”), through its attorneys, Athena Christofalos and Jeffrey C. Goelitz, of Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP, and hereby removes this action filed in the Circuit Court of Lake County, Illinois to the United States District Court for the Northern District of Illinois, Eastern Division, pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446. NSSED states the following in support of removal:

1. On June 9, 2015, Plaintiff, Susan Juhl, initiated this civil action by filing a two-count Complaint (Ex. A.1) in the Circuit Court of Lake County, Illinois. NSSED received the Complaint and a Waiver of Service of Summons on June 18, 2015. (Ex. A.4). Defendant agreed to waive service on July 21, 2015. (Ex. A.5). Copies of all process, pleadings, and orders served upon NSSED are attached as Group Exhibit A.¹

2. Count I of the Complaint alleged a claim of age discrimination in employment under the *Illinois Human Rights Act* (775 ILCS 5/1-101 *et seq.*). Count II of the complaint alleged a claim of retaliatory discharge under the Illinois *Workers'*

¹ For ease of reference, an Index to Group Exhibit A is attached.

Compensation Act (820 ILCS 305/1 *et seq.*). The Complaint did not allege any federal claims.

3. On August 17, 2015, NSSD filed a Motion for an Extension of Time to Respond to the Complaint. (Ex. A.9). NSSD's motion was granted on August 26, 2015, and NSSD was given until September 16, 2015, to answer or otherwise respond to the Complaint. (Ex. A.10). Subsequently, on September 16, 2015, NSSD filed a second Motion for an Extension of Time to Respond to the Complaint to allow additional time to try to resolve the case. (Ex. A.13). The court granted NSSD's second motion on September 24, 2015, giving NSSD until October 16, 2015, to answer or otherwise respond to the Complaint. (Ex. A.14).

4. On October 16, 2015, NSSD filed an Answer to Count II of Plaintiff's Complaint (Ex. A.17) and a Motion to Dismiss Count I of Plaintiff's Complaint (Ex. A.19). The Motion to Dismiss Count I of Plaintiff's Complaint argued that Juhl's age discrimination claim under the *Illinois Human Rights Act* should be dismissed because she failed to exhaust her administrative remedies.

5. Before the court ruled on NSSD's Motion to Dismiss Count I of Plaintiff's Complaint, Juhl filed a Motion to File Amended Complaint (Ex. A.24), in which she sought to substitute her age discrimination claim under state law with an age discrimination claim under federal law (Ex. A.24. at ¶ 9). Over NSSD's objection, the court granted Juhl's Motion to File Amended Complaint on December 15, 2015. (Ex. A.25). Plaintiff filed the Amended Complaint on December 15, 2015, and served the Amended Complaint upon NSSD that same day. (Ex. A.26).

6. The Amended Complaint retained the Illinois retaliatory discharge claim in Count II, but substituted the state age discrimination claim in Count I for a

federal age discrimination claim arising under the *Age Discrimination in Employment Act of 1967* (29 U.S.C. 621 *et seq.*).

7. Insofar as the Amended Complaint now prays for relief pursuant to 29 U.S.C. 621 *et seq.*, this action falls within the jurisdiction of the federal courts pursuant to 28 U.S.C. §§ 1331 and 1367(a) and may be removed pursuant to 28 U.S.C. §§ 1441(a) and 1446(b)(3).

8. Pursuant to 28 U.S.C. §§ 1446(a), a true and correct copy of all of the process, pleadings, and orders from the State court action that have been served upon NSSD are being filed with this Notice of Removal.

9. This Notice of Removal has been filed within 30 days of the date that NSSD received the Amended Complaint in this case, from which it first could be ascertained that the case is one that is or has become removable. Removal is therefore timely in accordance with 28 U.S.C. §§ 1446(b)(3).

10. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because the United States District Court for the Northern District of Illinois, Eastern Division, is the federal judicial district embracing the Circuit Court of Lake County, Illinois, where the State court action was originally filed.

CONCLUSION

By this Notice of Removal, NSSD does not waive any objections it may have as to any other defenses or objections it may have to this action. NSSD intends no admission of fact, law, or liability by this Notice and expressly reserves all defenses, motions, and/or pleas.

Signature page to follow

Respectfully submitted,

NORTHERN SUBURBAN SPECIAL
EDUCATION DISTRICT 760

Date: January 14, 2016

By: /s/ Jeffrey C. Goelitz
One of Its Attorneys

Stanley B. Eisenhammer—0725781
Athena Christofalos—6272061
Jeffrey C. Goelitz—6292892
Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP
3030 Salt Creek Lane, Suite 202
Arlington Heights, IL 60005
Tel: 847-670-9000
Fax: 847-670-7334

CERTIFICATE OF SERVICE

I Jeffrey C. Goelitz, an attorney, hereby certify that a true and correct copy of the foregoing **Notice of Removal** was sent on January 14, 2016, by first class mail, postage prepaid, deposited at or before the hour of 5:00 p.m., addressed to the following:

Diana C. Taylor
DeSanto Morgan & Taylor
712 Florsheim Drive
Libertyville, Illinois 60048

/s/ Jeffrey C. Goelitz

Stanley B. Eisenhammer—0725781
Athena Christofalos—6272061
Jeffrey C. Goelitz—6292892
Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP
3030 Salt Creek Lane, Suite 202
Arlington Heights, IL 60005
Tel: 847-670-9000
Fax: 847-670-7334

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